

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/069,375	MIYOSHI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Duc Nguyen	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to application filed 2/25/02.
2.  The allowed claim(s) is/are 1-15.
3.  The drawings filed on 25 February 2002 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*Duc Nguyen*  
 Duc Nguyen  
 Primary Examiner  
*Art Unit 2643*

***Allowable Subject Matter***

1. Claims 1-15 are allowed over the prior art of record.

2. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to teach a mobile communication system comprising a mobile communication system comprising a mobile station apparatus that transmits data transmission rate request value, and a base station apparatus that selects the mobile station apparatus to which data is transmitted based on the data transmission rate request value received from the mobile station apparatus and transmits data to the selected mobile station apparatus at the data transmission rate request value received from the selected mobile station apparatus, wherein the mobile station apparatus comprises: first receiving means for receiving an average data transmission rate transmitted from the base station apparatus; measuring means for measuring quality of the received signal from the base station apparatus; deciding means for deciding the data transmission rate request value based on the reception quality measured by said measuring means; first calculating means for calculating a difference between the data transmission rate request value decided by said deciding means and the average data transmission rate received by said first receiving means; judging means for judging whether or not the result of calculation by said first calculating means is equal to or larger than a reference value; and first controlling means for making the data transmission rate request value decided by said deciding means be transmitted to the base station apparatus when it is judged by said judging means that the result of calculation by said first calculating means is equal to or larger than the reference value, and wherein the base station apparatus comprises: second receiving means for receiving the data

transmission rate request value transmitted from the mobile station apparatus; selecting means for selecting the mobile station apparatus to which data is transmitted based on the data transmission rate request value received by said second receiving means; second calculating means for calculating an average of a data transmission rate for transmitting data to the mobile station apparatus selected by said selecting means as the average data transmission rate; and second controlling means for making the average data transmission rate calculated by said second calculating means be transmitted to the mobile station apparatus. These limitations, in combination with the remaining limitations of claims 1-3, 5-10, 12-13, 15, are not taught nor suggested by the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kanakia et al (5,594,729) teaches adjusting the rate of data transmission.

Gilhousen et al (5,812,938) teaches a closed loop power control in a CDMA system.

Esteves et al (6,205,129) teaches a method and system for controlling transmission rate of data on the forward link.

Ue et al (6,597,894) teaches a method and system for controlling transmission rate.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Nguyen whose telephone number is 703-308-7527. The examiner can normally be reached on 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Duc Nguyen  
Primary Examiner  
Art Unit 2643

12/1/04